



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,091	03/16/2005	Magnus Pettersson	BERGLUNDS P0238	7065
27667 7590 08/15/2008 HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718				
EXAMINER				
TON, TRI T				
ART UNIT		PAPER NUMBER		
2877				
MAIL DATE		DELIVERY MODE		
08/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Supplemental  
Notice of Allowability**

**Application No.**

10/528,091

**Examiner**

TRI T. TON

**Applicant(s)**

PETTERSSON ET AL.

**Art Unit**

2877

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/21/08.
2. ☒ The allowed claim(s) is/are 7,8,10,23-28,30 and 33-43.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|---|

***DETAILED ACTION***

1. This Supplemental Notice of Allowability supersedes previous Office Actions mailed on 02/22/2008 and 06/12/2008.

Original claim 23 was canceled by mistake. Claim 23 is allowed. This office action supersedes the previous one and corrects the claim set.

***EXAMINER'S AMENDMENT***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Norman P. Soloway, Registration number 24,315, on 02/19/2008.

The application has been amended as follows:

**In the claims:**

- i. **Claims 1-6, 9, 11-22, 29, 31, 32 have been canceled** for being drawn to non-elected invention(s). Applicant(s) have the right to file divisional application(s) on subject matter covered by these claims.
  - ii. Claim 24 has been amended and rewritten as followed:
24. A method for processing signals from light detectors as claimed in claim 7, including an amplifier for amplifying signals from the light detectors, which comprises

employing a signal processing algorithm on the signals from said light detectors, to detect blood constituents.

***Allowable Subject Matter***

4. **Claims 7-8, 10, 23-28, 30, 33-43 are allowed.**
5. The allowable Subject matter was indicated in office Action mailed on 08/17/2007.

The following is a statement of reasons for the indication of allowable subject matter: No prior art found by the examiner that suggested modification or combination with the cited art so as to satisfy the combination of all the limitations in claim 7.

As claim 7, the prior art of record taken alone or in combination, fails to disclose or render obvious "a first set of light emitters are arranged as an array encircling the elongated vessel or tubing a longitudinal location along the vessel or tubing, and at least a second set light detectors are arranged as arrays encircling the elongated vessel or tubing at a longitudinally different location along the vessel or tubing" in combination with the rest of the limitations of claim 7.

The dependent claims 8, 10, 23-28, 30, 33-43 are allowed by virtue of their dependence upon claim 7.

***Fax/Telephone Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri T. Ton whose telephone number is (571) 272-9064. The examiner can normally be reached on 10:30am - 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Gregory J. Toatley, Jr./  
Supervisory Patent Examiner, Art Unit 2877  
4 Aug 08

July 24, 2008  
Examiner /Tri T Ton/